

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>ROBERTA BLOOM, et al.,</b>	:	
	:	<b>Case No. 2:20-cv-04534</b>
<b>Plaintiffs,</b>	:	
	:	<b>CHIEF JUDGE ALGENON L. MARBLEY</b>
<b>v.</b>	:	
	:	<b>Magistrate Judge Jolson</b>
<b>MICHAEL J. ANDERSON, et al.,</b>	:	
	:	
<b>Defendants,</b>	:	
	:	
<b>FIRSTENERGY CORP.,</b>	:	
	:	
<b>Nominal Defendant.</b>	:	
<hr/>		
<b>EMPLOYEES RETIREMENT SYSTEM OF THE CITY OF ST. LOUIS,</b>	:	<b>Case No. 2:20-cv-04813</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>CHARLES E. JONES, et al.,</b>	:	
	:	
<b>Defendants,</b>	:	
	:	
<b>FIRSTENERGY CORP.,</b>	:	
	:	
<b>Nominal Defendant.</b>	:	

*Captions continued on next page.*

<b>ELECTRICAL WORKERS PENSION</b>	:	
<b>FUND, LOCAL 103, I.B.E.W.,</b>	:	<b>Case No. 2:20-cv-05128</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>MICHAEL J. ANDERSON, et al.,</b>	:	
	:	
<b>Defendants,</b>	:	
	:	
<b>FIRSTENERGY CORP.,</b>	:	
	:	
<b>Nominal Defendant.</b>	:	

---

<b>MASSACHUSETTS LABORERS</b>	:	
<b>PENSION FUND,</b>	:	<b>Case No. 2:20-cv-05237</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>CHARLES E. JONES, et al.,</b>	:	
	:	
<b>Defendants,</b>	:	
	:	
<b>FIRSTENERGY CORP.,</b>	:	
	:	
<b>Nominal Defendant.</b>	:	

---

*Captions continued on next page.*

**THE CITY OF PHILADELPHIA BOARD** :  
**OF PENSIONS AND RETIREMENT,** : **Case No. 2:20-cv-05529**  
:   
**Plaintiff,** :   
:   
**v.** :   
:   
**MICHAEL J. ANDERSON, et al.,** :   
:   
**Defendants,** :   
:   
**FIRSTENERGY CORP.,** :   
:   
**Nominal Defendant.** :

---

**JAMES ATHERTON,** :  
: **Case No. 2:20-cv-05610**  
**Plaintiff,** :   
:   
**v.** :   
:   
**MICHAEL J. DOWLING, et al.,** :   
:   
**Defendants,** :   
:   
**FIRSTENERGY CORP.,** :   
:   
**Nominal Defendant.** :

---

**ANDREW BEHAR,** :  
: **Case No. 2:20-cv-05876**  
**Plaintiff,** :   
:   
**v.** :   
:   
**MICHAEL J. ANDERSON, et al.,** :   
:   
**Defendants,** :   
:   
**FIRSTENERGY CORP.,** :   
:   
**Nominal Defendant.** :

## **OPINION AND ORDER**

On November 9, 2020, this Court held a hearing to consider whether to consolidate multiple derivative actions against the directors and officers of FirstEnergy Corp. (“FirstEnergy”) that are pending in the Southern District of Ohio<sup>1</sup> (the “FirstEnergy Derivative Actions”). (*See* No. 2:20-cv-04534, ECF Nos. 42, 45). At the hearing, the Court also heard arguments on two competing motions for Lead Plaintiff and Lead Counsel. On November 16, 2020, this Court entered an Order granting consolidation, appointing Plaintiffs Employees Retirement System of the City of St. Louis (“St. Louis Employees”) and Electrical Workers Pension Fund, Local 103, I.B.E.W. (“Electrical Workers”) as Co-Lead Plaintiffs; appointing Saxena White P.A. and Bernstein Litowitz Berger & Grossman LLP as Co-Lead Counsel; and appointing the Law Offices of John C. Camillus LLC as Liaison Counsel (the “Derivative Actions Appointment Order”). (*See id.*; ECF No. 48). The Court denied the appointments of The City of Philadelphia Board of Pensions and Retirement (“Philadelphia Pensions”) as Lead Plaintiff, of Berger Montague PC as Lead Counsel, and of O’Connor, Haseley & Wilhelm as Liaison Counsel. (*Id.*).

On November 12, 2020, Plaintiff Andrew Behar filed an additional derivative action against the directors and officers of FirstEnergy (the “*Behar* Action”). (No. 2:20-cv-05876-EAS, ECF No. 1). On November 13, 2020, Mr. Behar also filed a motion supporting the appointment of Philadelphia Pensions as Lead Plaintiff and Berger Montague as Lead Counsel. (*Id.*, ECF No. 3). Due to a technical error, the *Behar* Action was not determined to be related to the FirstEnergy

---

<sup>1</sup> The FirstEnergy Derivative Actions include: *Bloom v. Anderson*, No. 2:20-cv-04534 (S.D. Ohio); *Employees Retirement System of the City of St. Louis v. Jones*, No. 2:20-cv-04813 (S.D. Ohio); *Electrical Workers Pension Fund, Local 103, I.B.E.W. v. Anderson*, No. 2:20-cv-05128 (S.D. Ohio); *Massachusetts Laborers Pension Fund v. Jones*, No. 2:20-cv-05237 (S.D. Ohio); *The City of Philadelphia Board of Pensions and Retirement v. Anderson*, No. 2:20-cv-05529 (S.D. Ohio); and *Atherton v. Dowling*, No. 2:20-cv-05610 (S.D. Ohio).

Derivative Actions until November 16, 2020, after the Derivative Actions Appointment Order was docketed. (*See id.*, ECF No. 4).

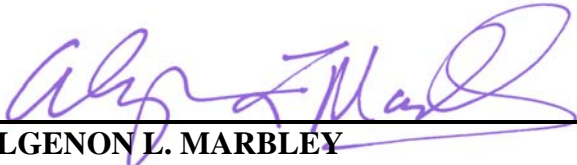
Accordingly, this Order supplements the Court's Derivative Actions Appointment Order entered on November 16, 2020, and sets forth the following:

First, the *Behar* Action is related to the FirstEnergy Derivative Actions and shares common questions of fact and law with them. Given these commonalities, the Court finds that consolidation will promote judicial economy and conserve the parties' resources. The Court also finds that consolidation is unlikely to prejudice the rights of any party. As such, the *Behar* Action will be consolidated with the FirstEnergy Derivative Actions.

Second, the Court reviewed Mr. Behar's motion supporting Philadelphia Pensions' request to be appointed Lead Counsel but finds that nothing in it changes the Court's analysis in the Derivative Actions Appointment Order. The Court's appointment of St. Louis Employees and Electrical Workers as Co-Lead Plaintiffs therefore remains unchanged.

Accordingly, the Court **ORDERS** Case No. 2:20-cv-05876 to be consolidated with the FirstEnergy Derivative Actions. The Court does not otherwise amend the Derivative Actions Appointment Order.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
**ALGENON L. MARBLEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**DATED: November 17, 2020**